

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.1

DATE: February 2, 2011

ACTION REQUESTED: Nursys Discipline Data Comparison (Scrub) Update

REQUESTED BY: Stacie Berumen, Enforcement Division Chief

BACKGROUND:

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records.

Currently, 1,805 records have been reviewed on the active license list. Determination was made whether the cases warranted a request for the other state's discipline documents. This review resulted in 1,050 requests for out-of-state documents. The documents will be evaluated and a decision made as to the appropriate action needed.

Review of the inactive license spreadsheet is in progress and will continue until complete. Holds have been placed on 1,915 inactive records to alert staff when a nurse on the list attempts to activate their license. This alert will allow staff to immediately request and review the records to determine if out-of-state discipline documents are needed for possible action on the license.

The status of the documents reviewed:

Referred to the Attorney General	262
Pleadings Received	215
Notices of Defense Received	118
Referred to Cite and Fine	47
Closed Without Action (Action taken by CA (prior to 2000) but not reported to Nursys or information approved at time of licensure)	450
Settlement or Decision Pending	108

As of November 30, 2010, the BRN has expended \$293,210.00 at the AG's office for the Nursys scrub cases. BRN has spent an average of \$58,642.00 per month so far.

UPDATE:

The National Council of State Boards of Nursing (NCSBN) announced at its Annual Meeting on or

about August 12, 2010, a new process in development for non-licensure participating boards to participate in sharing discipline information. The NCSBN Board of Directors met on December 7-9, 2011, to have a final discussion and vote on this modified member participation. The Board of Directors voted to allow non-licensure member boards to upload their licensing data into Nursys so we will have access to other states discipline as soon as it happens. The Board of Directors is still considering what type of nominal payment will be required, if any, at their February 2011 meeting. Any additional information will be provided once received.

NEXT STEP:

Continue to order, review, and determine what, if any, action will be taken against California licensees who have been disciplined by another state/agency. Updates will be provided to the committee and board at each meeting. Follow directions given by committee and/or board.

**FINANCIAL
IMPLICATIONS,
IF ANY:**

Updates will be provided at each DDC meeting regarding the data comparison results and costs at the AG's office and OAH for review and possible action. Cost to participate as a modified participating member board.

PERSON TO CONTACT:

Stacie Berumen, Enforcement Division Chief
(916) 574-7678

Beth Scott, Probation Program Manager
(916) 574-8187

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.2
DATE: February 2, 2011

ACTION REQUESTED: Internet Disclosure Policy

REQUESTED BY: Stacie Berumen, Enforcement Division Chief

BACKGROUND:

The Board of Registered Nursing (BRN) began posting discipline information on its web site in 2006. This was done in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The BRN provides this information to better inform and protect California's health care consumers.

Business and Professions Code Section 27 requires a number of boards and bureaus under the direction of the Department of Consumer Affairs, to post information regarding licensees on their web sites. The BRN is not included in this code section.

BRN provides information on the internet to indicate any disciplinary actions and their status through a series of codes from our legacy computer system. The discipline documents are added to support and explain actions taken.

As of December 22, 2010, there are approximately 5,241 discipline documents listed on our website. These documents include denial letters, statements of issue, accusations, petitions to revoke probation, interim suspension orders, PC 23 criminal court practice suspension orders, and final decisions.

Current and past Board members have expressed concern and believe it is vitally important the public is aware of nurses who may pose a danger to the public.

In the last year, BRN staff has received requests to remove discipline documents from our website for a variety of reasons such as: it has been many years since the action was taken, the conviction included in the disciplinary action has been dismissed, expunged, or sealed, it hampers a licensee's ability to find employment, or the licensee is harassed by co-workers.

The BRN has been unable to provide all discipline documents on the website due to limited staff resources and ability to access records quickly. Discipline documents continue to be requested on a routine basis by members of the public if they are not available on the website. When staff requests a file to obtain the discipline documents they are added to the website at the same time they are sent

out to the requestor.

DCA and BRN past practice is to retain the documents on the website indefinitely but at least until the BRN no longer has jurisdiction over a licensee.

FULL BOARD RECOMMENDATION ON SEPTEMBER 24, 2010:

Issue returned to the Diversion/Discipline Committee to create a policy for discipline record retention on the internet.

SUB-COMMITTEE RECOMMENDATION ON NOVEMBER 16, 2010:

Outside materials were not provided at the sub-committee meeting and held for next Diversion/Discipline Committee meeting for review and discussion.

ISSUES FOR COMMITTEE CONSIDERATION:

How long should the BRN retain disciplinary materials considered public documents on the website?

NEXT STEP:

Discuss and create a formal policy for retaining discipline records on the internet. Follow directions given by committee and/or board.

**FINANCIAL
IMPLICATIONS,
IF ANY:**

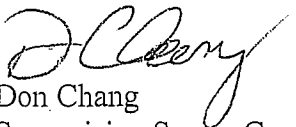
None at this time.

PERSON TO CONTACT:

Stacie Berumen, Enforcement Division Chief
(916) 574-7678



MEMORANDUM

DATE	December 30, 2010
TO	Stacie Berumen
FROM	 Don Chang Supervising Senior Counsel
SUBJECT	Policies For Posting Disciplinary Actions on Internet

You have asked what, if any, policies exist among the agencies that make up the Department of Consumer Affairs ("Department") concerning the duration that they will keep disciplinary information on their websites. Most agencies within the Department of Consumer do not have a specific policy regarding the duration that they will keep disciplinary information on their internet web sites, and accordingly, will keep such information on their web sites indefinitely.

General Requirements For Internet Posting Of Enforcement Actions

Business and Professions Code section 27 requires specified agencies within the Department to post on their websites information that is permitted to be disclosed in accordance with the Public Records Act regarding the status of every license issued by the agency. Such information must include information on suspensions and revocations of licenses and other related enforcement action, e.g., citations taken by the agency against a licensee. Section 27 is applicable to the following agencies: Acupuncture Board, Board of Behavioral Sciences, Dental Board of California, State Board of Optometry, Board of Professional Engineers and Land Surveyors, Structural Pest Control Board, Bureau of Automotive Repair, Bureau of Electronic and Appliance Repair, Cemetery and Funeral Bureau, Professional Fiduciaries Bureau, Contractors' State License Board, Board of Psychology, and the Bureau for Private Postsecondary Education. Section 27 provides in relevant part as follows:

"(a) Each entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing

with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet."

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Limitations On Duration For Internet Posting Of Enforcement Actions

A few agencies within the Department of Consumer Affairs have statutes, regulations, or policies that provide for the removal or purging of specified disciplinary information from the agency's website. Below is a compilation of these agencies.

Statutory Policies

Medical Board of California - Business and Professions Code section 2027 generally requires the MBC to post information on physicians and surgeons on the internet, such as whether the licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, or subject to an enforcement action, e.g., revocation, suspension, probation or limitations on practice ordered by the MBC, public letters of reprimand, infractions or citations. Generally provides for posting of information on the internet for 10 years from the date that the MBC obtains the posted information.

§ 2027.

(a) On or after July 1, 2001, the board shall post on the Internet the following information in its possession, custody, or control regarding licensed physicians and surgeons:

(1) With regard to the status of the license, whether or not the licensee is in good standing, subject to a temporary restraining order (TRO), subject to an interim suspension order (ISO), or subject to any of the enforcement actions set forth in Section 803.1.

(2) With regard to prior discipline, whether or not the licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(3) Any felony convictions reported to the board after January 3, 1991.

(4) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" shall mean an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the Medical Board of California unless an appeal of that decision is pending.

(5) Any malpractice judgment or arbitration award reported to the board after January 1, 1993.

(6) Any hospital disciplinary actions that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason.

(7) Any misdemeanor conviction that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

(8) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.

(9) Any information required to be disclosed pursuant to Section 803.1.

(b)(1) From January 1, 2003, the information described in paragraphs (1)(other than whether or not the licensee is in good standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain posted for a period of 10 years from the date the board obtains possession, custody, or control of the information, and after the end of that period shall be removed from being posted on the board's Internet Web site. Information in the possession, custody, or control of the board prior to January 1, 2003, shall be posted for a period of 10 years from January 1, 2003. Settlement information shall be posted as described in paragraph (2) of subdivision (b) of Section 803.1.

(2) The information described in paragraphs (3) and (6) of subdivision (a) shall not be removed from being posted on the board's Internet Web site. Notwithstanding the provisions of this paragraph, if a licensee's hospital staff privileges are restored and the licensee notifies the board of the restoration, the information pertaining to the termination or revocation of those privileges, as described in paragraph (6) of subdivision (a), shall remain posted for a period of 10 years from the restoration date of the privileges, and at the end of that period shall be removed from being posted on the board's Internet Web site.

(c) The board shall provide links to other Web sites on the Internet that provide information on board certifications that meet the requirements of subdivision (b) of Section 651. The board may provide links to other Web sites on the Internet that provide information on health care service plans, health insurers, hospitals, or other facilities. The board may also provide links to any other sites that would provide information on the affiliations of licensed physicians and surgeons.

Contractors' State License Board – Business and Professions Code section 7124.6 generally provides for public access to complaints against contractors. Subdivision (e), however, limits the disclosure of citations for five years after the date of compliance, provided that no additional disciplinary actions have been filed against the licensee during the five-year period. Accusations that resulted in a stayed revocation or stayed suspension of the license are disclosed from the date the accusation is filed and for seven years after the accusation has been settled if no additional disciplinary actions have been filed against the licensee during the seven year period.

§ 7124.6.

(a) The registrar shall make available to members of the public the date, nature, and status of all complaints on file against a licensee that do either of the following:

(1) Have been referred for accusation.

(2) Have been referred for investigation after a determination by board enforcement staff that a probable violation has occurred, and have been reviewed by a supervisor, and regard allegations that if proven would present a risk of harm to the public and would be appropriate for suspension or revocation of the contractor's license or criminal prosecution.

(b) The board shall create a disclaimer that shall accompany the disclosure of a complaint that shall state that the complaint is an allegation. The disclaimer may also contain any other information the board determines would be relevant to a person evaluating the complaint.

(c) A complaint resolved in favor of the contractor shall not be subject to disclosure.

(d) Except as described in subdivision (e), the registrar shall make available to members of the public the date, nature, and disposition of all legal actions.

(e) Disclosure of legal actions shall be limited as follows:

(1) Citations shall be disclosed from the date of issuance and for five years after the date of compliance if no additional disciplinary actions have been filed against the licensee during the five-year period. If additional disciplinary actions were filed against the

licensee during the five-year period, all disciplinary actions shall be disclosed for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those citations shall no longer be disclosed.

(2) Accusations that result in suspension, stayed suspension, or stayed revocation of the contractor's license shall be disclosed from the date the accusation is filed and for seven years after the accusation has been settled, including the terms and conditions of probation if no additional disciplinary actions have been filed against the licensee during the seven-year period. If additional disciplinary actions were filed against the licensee during the seven-year period, all disciplinary actions shall be posted for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those accusations shall no longer be disclosed.

(3) All revocations that are not stayed shall be disclosed indefinitely from the effective date of the revocation.

Regulations

Board of Registered Nursing – Regulation section 1435.15(b) provides for the purging of citations three years from the date of compliance with the citation.

§ 1435.15.

(a) Every citation that is issued pursuant to this article shall be disclosed to an inquiring member of the public.

(b) Every citation, once it has been resolved by payment of the administrative fine and/or compliance with the order of abatement, shall be purged three (3) years from the date of resolution, except for citations referenced in subsection (c).

(c) No citation shall be purged if issued pursuant to CCR Section 1435.3, and no citation shall be purged for any citation issued against an unlicensed individual using the title "registered nurse" or the letters "RN" after his or her name.

(d) A citation that has been withdrawn or dismissed shall be purged from the board's file as soon as administratively feasible, but no more than one year.

Policy

A Board within the Department has a policy where it will purge a citation five years after compliance has been met

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.3
DATE: February 2, 2011

ACTION REQUESTED: Implementation of Uniform Standards relating to Substance Abuse and Disciplinary Guidelines

REQUESTED BY: Stacie Berumen, Enforcement Division Chief

BACKGROUND:

SB 1441 was chaptered on September 28, 2008, requiring creation of a committee which was comprised of the Department of Consumer Affairs' director, and executive officers from all of the healing arts boards. The committee was to meet to formulate 16 uniform and specific standards for dealing with substance abusing licensees by January 1, 2010.

The 16 standards and their status are as follows:

1. Specific requirements for a clinical diagnostic evaluation.
BRN: Diversion and Probation Programs meet this standard.
2. Requirements for temporary removal of the licensee from practice to complete the clinical diagnostic evaluation and criteria to return to practice.
BRN: Diversion and Probation Programs are partially compliant. Drug testing requirement is determined on a case-by-case basis.
3. Specific requirements that govern the ability of the board to communicate with the licensee's employer.
BRN: Diversion and Probation Programs generally meet this standard.
4. Standards governing all aspects of required testing.
BRN: Diversion and Probation Programs are not meeting this standard as the Board Members have discussed this item at several meetings and are not comfortable that there is scientific evidence to support the new requirements.
5. Standards governing all aspects of group meeting attendance requirements.
BRN: Diversion and Probation Programs generally meet this standard.
6. Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.
BRN: Diversion and Probation Programs generally meet this standard.
7. Worksite monitoring requirements and standards.
BRN: Diversion and Probation Programs generally meet this standard.
8. Procedures to be followed when a licensee tests positive for a banned substance.
BRN: Diversion and Probation Programs generally meet this standard.
9. Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

BRN: Diversion and Probation Programs generally meet this standard.

10. Specific consequences for major and minor violations.

BRN: Diversion and Probation Programs generally meet this standard.

11. Criteria that a licensee must meet in order to petition for return to practice on a full time basis.

BRN: Diversion and Probation Programs generally meet this standard.

12. Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

BRN: Diversion and Probation Programs are not currently meeting this standard.

13. Requirements for boards that use private-sector vendor that provides diversion services.

BRN: Diversion Program is working with DCA on contract language.

14. Requirements for boards that use private-sector vendor providing diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

BRN: Diversion Program generally meets this standard.

15. Schedule for external independent audits for boards using private-sector vendors providing diversion services.

BRN: Diversion Program is working with DCA on contract language.

16. Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

BRN: Diversion and Probations Programs are not currently meeting this standard.

We will discuss the standards and provide updated information to the board members.

NEXT STEP:

Follow directions given by committee and/or board.

**FINANCIAL
IMPLICATIONS,
IF ANY:**

None at this time. Updates will be provided to the committee and/or board.

PERSON TO CONTACT:

Stacie Berumen, Enforcement Division Chief
(916) 574-7678

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.4
DATE: February 2, 2011

ACTION REQUESTED: Information Only: Enforcement Program Update and Statistics

REQUESTED BY: Stacie Berumen, Enforcement Division Chief

BACKGROUND:

PROGRAM UPDATE

Staff

The Department of Consumer Affairs resubmitted the hiring exemption request for the CPEI positions in December 2010 and the request was denied. The hiring exemption request for CPEI will be submitted to the new administration in the near future. BRN has been charged with extremely strict case completion time frames yet we lack the ability to hire for any of the approved positions.

At last some good news, the Department of Personnel Administration (DPA) approved our special allocation request to hire for the Special Investigator positions and our Enforcement Division Chief (Staff Services Manager III) on January 10, 2011. We have advertised for our special investigator positions and will recruit based on the current hiring limitations.

Since the last meeting we have lost our Citation and Fine Analyst to the Dental Board's Enforcement Program along with two of our three enforcement support staff who are transferring to other units within the BRN before the end of December 2010. The Citation and Fine Program will now be extremely limited due to lack of staff resources and all remaining enforcement staff will have to do their own support staff tasks in addition to managing their cases.

We have advertised for the five limited term positions, the NEC classification, the Complaint Intake Manager and a variety of existing enforcement vacancies and hope we can hire with internal Department of Consumer Affairs (DCA) transfer candidates. In preparation for any type of hiring window the enforcement, probation, and diversion program managers spent almost two full weeks in December 2010 interviewing candidates for all possible vacancies within the Enforcement Division.

We have hired, through department transfer, one of our Complaint Intake analysts (CPEI position) and one of our vacant support staff positions. The new staff members will start at or near the beginning of February 2011. Recruitment will continue for all vacant positions.

We continue to be very concerned that our three existing limited term staff will either be forced to leave state service or return to their previous positions since they will not be able to stay beyond their two year

hiring period which will end within the next six months. We have submitted a special hiring exemption request for these three limited term positions on January 11, 2011, as of today we do not have a final response. We will continue to do what we can given the numerous hiring limitations to keep these staff for as long as possible; however, with no guarantees, those individuals may seek employment elsewhere.

Program

On November 16, 2010, Stacie Berumen, Kathy Hodge, Beth Scott and Leslie Brast, BRN liaison DAG met with AGO staff in the Oakland and San Francisco offices. On December 9, 2010, we also met with the Sacramento AGO with Don Chang, BRN legal counsel. These meetings were to go over BRN issues of concern, process changes, and to put some faces with the names. The meetings went very well and we plan to meet on an annual basis with each office to improve our communication and resolve any issues that come up as quickly as possible.

The BRN Enforcement and Probation programs will begin preparing and serving default decisions coming out of the Oakland and San Francisco AG's offices as of December 25, 2010. This will be done under the direction and supervision of attorneys in the DCA legal affairs office. Don Chang has been reviewing default packages prepared by the AGO which include the new evidence packet to develop the policies and procedures which will govern their preparation. As of January 19, 2011, one case is in the process of being prepared for a default decision and should begin be served shortly thereafter.

BRN Investigations

BRN investigators have completed 104 investigation reports; however, our pending investigations continue to add up and are now at 650, as of January 19, 2011. We only have two retired annuitant investigators actively working our cases in Northern California.

We have sent back 33 cases to DOI which were reviewed by the NECs for focused investigations. An additional 69 of our oldest cases have also been sent back to DOI for investigation. DOI has met with Rico Stephan and Stacie Berumen to review and identify cases that will be returned to DOI for investigation. The BRN cases have been identified by zip code and will continue to be referred back to offices who can handle the additional workload.

Statistics

There are 481 pending DOI investigations and 650 pending BRN investigations, as of December 31, 2010. There are 1,174 cases pending at the AG's office which continues to be the highest ever. The BRN is now the AGO's biggest client, surpassing the Contractor's State Licensing Board.

From July 1, 2010 to January 19, 2010, enforcement served 381 accusations. Enforcement prepared nine (9) default decisions from July 1, 2010 to July 26, 2010, prior to the process returning to the AG's office on July 27, 2010.

Please review the two enforcement reports (attachment) which have additional breakdowns of statistical

information, including average days to complete certain steps in the enforcement process.

NEXT STEPS:

Begin filling CPEI positions when the hiring freeze is lifted. Regain ability to prepare all default decisions. Continue to monitor statistics for improvement in case processing time frames. Seek direction from the committee and/or board.

**FINANCIAL
IMPLICATIONS,
IF ANY:**

BRN Enforcement has expended 95% of its AG line item and 72% of its OAH line item as of December 31, 2010. The DCA budget office has submitted a letter to the Department of Finance and the Legislature requesting an augmentation to these line items as authorized in the approved CPEI Budget Change Proposal. When we have additional information we will provide an update.

We have received two electronic billing reports from the AG's office and staff are currently in the process of scrutinizing the December 31, 2010 billing information.

Updates will be provided at each DDC and Board meeting for review and possible action. Seek direction from the committee and/or board.

PERSON(S) TO CONTACT:

Stacie Berumen, Enforcement Division Chief or
Kathy Hodge, Enforcement Program Manager
(916) 574-767

Board of Registered Nursing
Enforcement Division Statistics
FY 2010/2011

Complaint Intake	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
Complaints Received	997	642			1,639
Closed Without Investigation	123	140			263
Assigned for Investigation	824	599			1,423
Avg Days to Close or Assign	14	20			17
Pending Complaints	146	65			65
Conviction/Arrest Reports Received	1,175	1,335			2,510
Closed/Assigned for Investigation	1,184	1,441			2,625
Avg Days to Close or Assign	17	19			18
Pending Court/Arrest Complaints	217	125			125
Total Complaints Received	2,172	1,977			4,149
Total Closed Without Investigation Assignment	132	145			277
Total Assigned for Investigation	1,999	2,035			4,034
Avg Days to Close or Assign	16	19			18
Total Pending Complaints	363	190			190

Investigations	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
Desk Investigations Assigned	1,999	2,033			4,032
Desk Investigations Closed	1,828	1,880			3,708
Avg Days to Close Desk Investigations	88	84			86
Pending Desk Investigations	2,219	2,308			2,308
Non-Sworn Field Investigations Assigned	8	6			14
Non-Sworn Field Investigations Closed	11	18			29
Avg Days to Close Non-Sworn Field Investigations	377	458			427
Pending Non-Sworn Field Investigations	38	30			30
Unassigned Non-Sworn Field Investigations					0
Sworn Field Investigations Assigned	78	167			245
Sworn Field Investigations Closed	261	155			416
Avg Days to Close Sworn Field Investigations	650	523			608
Pending Sworn Field Investigations	462	483			483
All Investigations First Assigned	1,999	2,036			4,035
All Investigations Closed	2,109	2,054			4,163
Avg Days to Close All Investigations	161	121			142
Pending All Investigations	2,719	2,819			5,538
Closed Without Referral to Discipline	1,563	1,708			3,271
Avg Days to Close Without Referral to Discipline	121	98			109

Investigations Aging	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
0-90 Days	1,319	1,317			2,636
91-180 Days	287	361			648
181 Days - 1 Year	185	198			383
1-2 Years	223	129			352
2-3 Years	70	46			116
Over 3 Years	25	3			28

Citations	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
Final Citations	38	22			60
Avg Days to Complete Citations	184	198			189

Board of Registered Nursing
Enforcement Division Statistics
FY 2010/2011

Disciplinary Cases	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
AG Cases Initiated	435	280			715
AG Cases Pending	1,104	1,185			1,185
Statements of Issue Filed	3	9			12
SOI Proposed/Default Decisions	0	0			0
SOI Stipulated Decisions	0	2			2
SOI Final Orders (Adopted by Board)	0	2			2
SOI Avg Days to Complete	0	401			401
Accusations Filed	273	302			575
Accusations - Proposed/Default Decisions	58	62			120
Accusations - Stipulated Decisions	71	102			173
Accusations - Final Orders (Adopted by Board)	129	163			292
Accusations - All Decisions Avg Days to Complete	908	798			854
Total Final Orders (Adopted by Board)	129	165			294
Total Avg Days to Complete	908	798			851
Accusations Withdrawn	7	10			17
Accusations Dismissed	2	0			2
Accusations Declined	5	18			23
Avg Days to Complete Accusations W/D, Dis, Dec	829	549			690
Cases Closed Without Disciplinary Action	13	11			24
Avg Days to Complete Cases Closed W/O Discipline	335	478			454
Total Orders Aging	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	FY 2010/11
0-90 Days	0	0			0
91-180 Days	3	5			8
181 Days - 1 Year	21	29			50
1-2 Years	28	52			80
2-3 Years	34	36			70
Over 3 Years	43	43			86

Complaint Intake	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	1st Qtr	2nd Qtr	Total
Complaints Received	348	398	254	184	284	174	1000	642	1642
Closed Without Investigation	29	44	44	37	45	58	117	140	257
Assigned for Investigation	316	323	186	177	236	189	825	602	1427
Avg Days to Close or Assign	9	10	28	18	18	23	47	59	17
Pending Complaints	110	141	165	135	138	65	416	338	65
Conviction/Arrest Reports Received	368	422	390	420	415	501	1180	1336	2516
Closed/Assigned for Investigation	480	306	398	382	454	605	1184	1441	2625
Avg Days to Close or Assign	19	12	19	15	24	18	50	57	18
Pending Court/Arrest Complaints	123	239	231	269	230	126	593	625	126
Total Complaints Received	716	820	644	604	699	675	2180	1978	4158
Total Closed Without Investigation Assignment	35	46	45	38	48	59	126	145	271
Total Assigned for Investigation	790	627	583	558	687	793	2000	2038	4038
Avg Days to Close or Assign	15	11	23	16	22	19	49	57	18
Total Pending Complaints	233	380	396	404	368	191	1009	963	191
Desk Investigations Assigned	790	627	583	558	687	791	2000	2036	4036
Desk Investigations Closed	564	674	539	668	677	524	1777	1869	3646
Avg Days to Close Desk Investigations	88	94	82	82	89	81	264	252	86
Pending Desk Investigations	2396	2313	2329	2173	2130	2322	7038	6625	2322
Non-Sworn Field Investigations Assigned	2	7	2	0	4	2	11	6	17
Non-Sworn Field Investigations Closed	1	6	4	8	6	4	11	18	29
Avg Days to Close Non-Sworn Field Investigations	348	399	353	419	456	539	1100	1414	427
Pending Non-Sworn Field Investigations	43	44	42	34	32	30	129	96	30
Sworn Field Investigations Assigned	20	32	26	43	48	76	78	167	245
Sworn Field Investigations Closed	92	91	78	49	66	40	261	155	416
Avg Days to Close Sworn Field Investigations	632	600	757	590	531	432	1989	1553	608
Pending Sworn Field Investigations	582	523	471	465	448	483	1576	1396	483
All Investigations First Assigned	790	627	583	558	688	793	2000	2039	4039
All Investigations Closed	657	771	621	725	749	568	2049	2042	4091
Avg Days to Close All Investigations	165	156	168	120	131	109	489	360	142
Pending All Investigations	3021	2880	2842	2672	2610	2835	8743	8117	2835
0-90 Days	406	477	395	483	451	373	1278	1307	2585
91-180 Days	90	102	85	117	152	92	277	361	638
181 Days - 1 Year	60	73	48	70	62	65	181	197	378
1-2 Years	73	87	61	33	63	32	221	128	349
2-3 Years	23	26	18	20	21	5	67	46	113
Over 3 Years	5	6	14	2	0	1	25	3	28
Closed Without Referral to Discipline	459	589	456	595	602	498	1504	1695	3199

Avg Days to Close Without Referral to Discipline	131	119	114	102	96	97	364	295	109
Disciplinary Cases									
AG Cases Initiated	160	142	132	110	124	46	434	280	714
AG Cases Pending	940	1033	1111	1163	1206	1185	3084	3554	1185
Statements of Issue Filed	2	1	0	2	6	1	3	9	12
Accusations Filed	83	89	101	133	83	86	273	302	575
SOI Proposed/Default Decisions	0	0	0	0	0	0	0	0	0
SOI Stipulated Decisions	0	0	0	0	2	0	0	2	2
Accusations - Proposed/Default Decisions	28	11	19	10	28	23	58	61	119
Accusations - Stipulated Decisions	20	26	25	32	44	26	71	102	173
SOI Final Orders (Adopted by Board)	0	0	0	0	2	0	0	2	2
SOI Avg Days to Complete	0	0	0	0	401	0	0	401	401
Accusations - Final Orders (Adopted by Board)	48	37	44	42	72	49	129	163	292
Accusations - All Decisions Avg Days to Complete	1032	795	869	911	762	798	2696	2471	854
Total Final Orders (Adopted by Board)	48	37	44	42	74	49	129	165	294
Avg Days to Complete Total Final Orders	1032	795	869	911	753	798	2696	2462	851
0-90 Days	0	0	0	0	0	0	0	0	0
91-180 Days	0	1	2	0	4	1	3	5	8
181 Days - 1 Year	6	9	6	4	16	9	21	29	50
1-2 Years	6	8	14	14	22	16	28	52	80
2-3 Years	16	9	9	11	14	11	34	36	70
Over 3 Years	20	10	13	13	18	12	43	43	86
SOIs Withdrawn	0	0	0	0	0	0	0	0	0
SOIs Dismissed	0	0	0	0	0	0	0	0	0
SOIs Declined	0	0	0	0	0	0	0	0	0
Avg Days to Complete SOIs W/D, Dis, Dec	0	0	0	0	0	0	0	0	0
Accusations Withdrawn	1	4	2	4	2	4	7	10	17
Accusations Dismissed	0	2	0	0	0	0	2	0	2
Accusations Declined	1	3	1	9	2	7	5	18	23
Avg Days to Complete Accusations W/D, Dis, Dec	845	881	664	698	563	549	2390	1810	690
Cases Referred & Closed W/O Disciplinary Action	4	3	6	3	3	5	13	11	24
Avg Days to Complete Cases Closed W/O Discipline	548	789	263	600	611	224	1600	1435	454
Final Citations	4	22	12	1	21	0	38	22	60
Avg Days to Complete Citations	324	146	207	617	178	0	677	795	189
Other Legal Actions							0	0	0
Interim Suspension Orders	1	0	0	0	0	0	1	0	1

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.5
DATE: February 2, 2011

ACTION REQUESTED: Information Only: Probation Program Update and Statistics

REQUESTED BY: Stacie Berumen, Enforcement Division Chief

BACKGROUND:

PROGRAM UPDATE

Staff

The Probation Program has hired an eligible transfer employee for the vacant Probation Monitor position and she started on January 3, 2011. However, another probation monitor has accepted an offer for one of our CPEI positions in the Diversion Program. As a result, the probation program again has one vacancy for a probation monitor and has initiated recruitment efforts with the limitation of only being allowed to hire DCA lateral transfer candidates. Additionally, the probation program has a vacant limited term Office Technician position and continues recruitment efforts to fill this vacancy.

Program

On December 16, 2010, the Probation Program staff conducted a probation monitoring workshop for the staff of the Attorney General's office in Oakland and San Francisco. This workshop was designed to share issues regarding monitoring probationers, settling cases for probation and prosecuting petitions to revoke probation. The workshop received very favorable feedback from AG office staff in attendance with the only caveat that it was too short.

The Probation Program staff continues to participate in designing a multi day course directed towards probation monitors. This course will be comprehensive training to provide actual tools and knowledge for probation monitors state wide. The training is scheduled to be given on February 28 - March 1, 2011. Additionally, the probation staff provided training at the second Enforcement Academy in December.

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records. Updates will be provided at each DDC and Board meeting.

The Probation Program will begin reviewing the Recommended Guidelines for Disciplinary Orders and Conditions of Probation in January 2011. They were last revised in 2002 and are long overdue for cleanup and will incorporate recent legislative and regulatory changes.

The Probation Program began a pilot project with Phamatech Laboratories to determine if the Department wide contract for random drug screening would benefit the program. A limited number of probationers began testing with this vendor and the staff has been monitoring all aspects of the program to ensure they meet BRN monitoring requirements. Issues which have been identified have been brought to Phamatech's attention and are currently being resolved.

STATISTICS

Below are the statistics for the Probation program from October 29, 2010 to January 19, 2010.

Probation Data	Numbers	% of Total
Male	117	25%
Female	351	75%
Chemical Dependency	272	58%
Practice Case	145	31%
Mental Health	3	<1%
Conviction	51	11%
Advanced Certificates	36	8%
Southern California	252	54%
Northern California	216	46%
Pending at the AG	80	17%
License Revoked	4	<1%
License Surrendered	6	1%
Terminated	2	<1%
Completed	18	4%
Total in-state probationers	468	

NEXT STEP:

Continue to develop probation monitor procedure manual.
Follow directions given by committee and/or board.

FINANCIAL IMPLICATIONS, IF ANY:

Since July 1, 2010, the BRN has expended \$357,765 as of December 31, 2010, for the Nursys Scrub cases at the AGO. This equates to an average of \$59,627 per month. We are closely monitoring the AG billing and will provide updates at each DDC and Board meeting for review and possible action.

PERSON TO CONTACT:

Beth Scott, Probation Program Manager
(916) 574-8187

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.6
DATE: February 2, 2011

ACTION REQUESTED: Information Only: Diversion Program Update and Statistics

REQUESTED BY: Carol Stanford, Diversion Program Manager

BACKGROUND:

PROGRAM UPDATE

The Nurse Support Group Facilitator's Conference was conducted on December 1, 2010 in Sacramento. It was well attended by the NSG facilitators, the probation and diversion staff, the Maximus case managers, Diversion NEC liaison and the Enforcement Chief. It was an informative and productive conference that opened greater communication between the facilitators, Board staff and the contractor. The history of nurse support groups was provided and information clarifying the facilitators' roles and responsibilities as outlined in the Contract, SB1441, and recommended guidelines for probationers was also provided.

Dr. Donna Smith, the Medical Review officer for First Lab, was the guest speaker for the conference. She served as the Acting Director, Drug Enforcement and Program Compliance, for the U.S. Department of Transportation in Washington, D.C., coordinating the development, implementation, and enforcement of policies and procedures for the transportation industry workplace drug and alcohol testing programs. She also served as Senior Advisor to the Secretary of Transportation for monitoring all components of the DOT and industry drug and alcohol testing programs, as well as coordinating its enforcement and compliance efforts. She was a principal author of the DOT drug and alcohol testing regulations and numerous government publications on drug and alcohol testing procedures. Her particular areas of expertise are in specimen collection, laboratory analysis, medical review officer procedures, employer policy development and implementation, and regulatory compliance.

Dr. Smith explained the significance of the drug testing, EyG testing, out of ranges, and dilutes for RNs in Diversion and Probation and how it fits into the entire picture of monitoring individuals with substance abuse disorders. The information was well received. A copy of the minutes of the NSG meeting, Dr. Smith's Bio, and a copy of her presentation is available upon request.

On December 2, 2010, the Diversion Program also conducted a DEC Orientation Meeting in Folsom. This provided required training for new DEC members to familiarize them with their role and responsibilities related to their appointment and other State requirements. Dr. Smith went into greater depth regarding the significance of monitoring the nurses in Diversion and the testing protocols.

On December 8, 2010, the Diversion Program manager was subpoenaed to testify in Federal Court regarding a case for the Pharmacy Board involving our previous drug testing company's use of EtG, a metabolite of alcohol, in the drug panel and the protocols set up to handle and evaluate those individuals discovered to be positive for the substance. This was a test case as there are several other cases pending involving the use of EtG in monitoring programs. The jury in this case ruled that the drug testing companies were not negligent in their use of this test and were not negligent in their handling of the plaintiff.

On December 17, Anita Rodriguez was hired as an AGPA for the Diversion Program. Anita will be a great asset to the program as she is transferring from the BRN's Probation unit and comes with experience and knowledge regarding the Board and RNs who have been disciplined for substance abuse or mental illness.

Diversion Evaluation Committees (DEC)

The Diversion Evaluation Committee members are to be commended for their continued support of the Diversion Program despite the fact that due to the state budget many of them were delayed in receiving reimbursement for their travel expenses. Many of them have come to the Board with years of experience in various fields of expertise and are vital to the overall success of the BRN's Diversion Program. Their continued dedication especially during the State's economic crisis is appreciated.

There are currently 9 vacancies as follows: two Registered Nurses, six Physicians, and one Public member. Recruitment efforts continue.

Statistics

Attached is the Monthly Statistical Summary Report for October and November, 2010. As of November 30, 2010, there were 1,522 successful completions.

NEXT STEPS: None

**FINANCIAL
IMPLICATIONS,
IF ANY:**

None at this time. Updates will be provided at each DDC and Board meeting for review and possible action.

PERSON TO CONTACT: Carol Stanford, Diversion Program Manager
(916) 574-7616

**BOARD OF REGISTERED NURSING
DIVERSION PROGRAM
STATISTICAL SUMMARY
October - November 2010**

	CURRENT MONTHS	YEAR TO DATE (FY)	PROGRAM TO DATE
INTAKES COMPLETED	26	75	4,171
INTAKE INFORMATION			
Female	18	54	3,282
Male	8	23	889
Average Age	35-39		
Most Common Worksite	Hospital		
Most Common Specialty	Medical Surgical		
Most Common Substance Abused	Alcohol/Hydrocodone		
PRESENTING PROBLEM AT INTAKE			
Substance Abuse (only)	16	48	2,737
Mental Illness (only)	1	1	145
Dual Diagnosis	9	26	1,248
Undetermined	0	0	41
REFERRAL TYPE*			
Self	14	22	1,269
Board	12	53	2,902
*May change after Intake			
ETHNICITY (IF KNOWN) AT INTAKE			
Asian	0	2	82
African American	1	2	131
Hispanic	1	7	157
Native American	0	0	28
Pacific Islander	0	1	15
Caucasian	24	63	3,433
Other	0	0	59
Not Reported	0	0	266
CLOSURES			
Successful Completion	17	38	1,522
Failure to Derive Benefit	0	0	102
Failure to Comply	2	2	908
Moved to Another State	0	0	51
Not Accepted by DEC	0	1	40
Voluntary Withdrawal Post-DEC	1	3	283
Voluntary Withdrawal Pre-DEC	2	7	399
Closed Public Risk	5	21	203
No Longer Eligible	1	2	19
Client Expired	0	1	37
TOTAL CLOSURES	28	75	3,564
NUMBER OF PARTICIPANTS: 493 (as of November 30, 2010)			